

San Francisco Bay Area Rapid Transit District
Office of Civil Rights

Small Business Program (Non-Federal)

April 3, 2012

Overview



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California Public Contract Code §2002

- California Public Contract Code §2002 allows an agency to include the following provisions in facilitating contract awards to Small Businesses (SB):
 - Applicable to award of contracts for construction, procurement of goods, or delivery of services.
 - SB preference up to 5% of the lowest responsible bidder's price.
 - Establish SB subcontracting participation goal and grant a preference up to 5% of the lowest responsible bidder's price, to those bidders who meet the SB subcontracting participation goal.

SB Program Overview

- The SB Program will apply to non-federally funded construction contracts, contracts for the procurement of goods, or services agreements awarded through a competitive process where price and other factors are considered.
 - SB Program will not apply to Architectural and Engineering professional services agreements.
- The SB Program will be implemented concurrently with Non-Discrimination in Subcontracting Program.
 - Bidders must comply with Non-Discrimination in Subcontracting Program requirements before being evaluated for SB preference.
 - Minority and women owned businesses and Disabled Veteran Business Enterprise may also qualify as an SB.
- The SB preference will be used for bid evaluation purposes only. The actual contract awarded will be for the amount of the original bid.
- SB eligibility requirements is based on the DGS certification.

SB Program - Contracts Under \$10M

SB Preference (Prime) Contractors:

- SB subcontracting participation goals will not be set for SB preference contracts.
- SB prime bidders will be granted a preference of up to 5% of the lowest responsible bidder's price up to a maximum of \$250,000.
- Office of Civil Rights and the project will designate specific contracts of \$10M or less to utilize SB Prime preference.
- Any Prime bidder may bid on the contracts, but **only** the Primes who qualify as SB will be eligible for the SB preference.

SB Program - Contracts Over \$10M

- Contract-specific SB Subcontracting Participation Goals:
 - Office of Civil Rights and the project will determine on a contract by contract basis whether the SB Program will apply and the total dollar limits.
 - SB subcontracting participation goals will be set on contracts over \$10M with subcontracting opportunities.
 - Bidders that meet the SB subcontracting participation goal will be eligible for a preference of up to 5% of the lowest responsible bidder's price up to a maximum of \$1M.
 - Only bidders that meet the SB subcontracting participation goal will be eligible for a preference.

SB Bid Review - Contracts Under\$10M SB Prime Preference Contracts Example 1

Bidder	Bid Amount	Compliance with Non- Discrimination Program?	SB Prime?	Bid Amount after SB Preference		
Bidder 1	\$6,345,000	Yes	No	\$6,345,000		
Bidder 2	\$6,548,300	Yes	No	\$6,548,300		
Bidder 3	\$6,550,200	Yes	Yes	\$6,300,200		
Bidder 4	\$7,366,675	No, Non- Responsive	N/A	N/A		

- The SB preference of 5% or \$317,250 is based on Bidder 1 bid.
 - Since the 5% preference exceeds the maximum cap, the applied preference is \$250,000.
- After applying the SB preference, Bidder 3 is the lowest responsive, responsible bidder. Bidder 3 is awarded the contract for the **original** bid price of \$6,550,200.

SB Bid Review - Contracts Over \$10M SB subcontracting goals Example 2

Bidder	Bid Amount	Compliance with Non- Discrimination Program	SB Subcontracting Participation Goal Met?	Bid Amount after SB Preference		
Bidder 1	\$16,245,000	No, Non- Responsive	N/A	N/A		
Bidder 2	\$ 16,648,300	Yes	No	\$16,648,300		
Bidder 3	\$17,267,388	Yes	Yes	\$16,434,973		
Bidder 4	\$18,366,675	No, Non- Responsive	N/A	N/A		

- Bidder 2 is the lowest responsive, responsible bidder. The 5% SB preference (\$832,415) is calculated based on Bidder 2's bid.
- After the SB preference of 5% or \$832,415 is applied, Bidder 3 is the lowest responsive, responsible bidder and is awarded the contract for the **original** bid price of \$17,267,388.

SB Bid Review - Contracts Over \$10M SB subcontracting goals Example 3

	Bidder	Bid Amount	Compliance with Non- Discrimination Program	SB Subcontracting Participation Goal Met?	Bid Amount after SB Preference		
	Bidder 1	\$28,245,000	No, Non- Responsive	N/A	N/A		
	Bidder 2	\$ 28,648,300	Yes	No	\$28,648,300		
	Bidder 3	\$30,267,388	Yes	Yes	\$29,267,388		
	Bidder 4	\$31,366,675	No, Non- Responsive	N/A	N/A		

- The SB preference of 5% or \$1,432,415 is based on Bidder 2's bid.
 - o Since the 5% preference exceeds the maximum cap, the applied preference is \$1,000,000.
- After applying the SB preference, Bidder 2 is the lowest responsive, responsible bidder and is awarded the contract for the **original** bid price of \$28,648,300.

SB Obligations after Award



- Bidders must take reasonable steps to ensure that SBs are able to successfully perform their subcontracts.
 - Submit Monthly SB Utilization Report.
 - Office of Civil Rights will monitor SB utilization.
- Contractor, subject to BART approval, must substitute an SB with another SB or demonstrate that it made good faith efforts to do so.



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Department of General Services SB Certification Requirements:

http://www.dgs.ca.gov/pd/Programs/OSDS/GetCertified.aspx

Upcoming Contracts

- 15IJ-110: Fire Alarm Renovation Phase 1, M-Line
 - Bid Date: April 10, 2012
- **04SF-120:** Construction of East Contra Costa BART Extension Project Parking Lot and Maintenance Facility
 - Bid Date: April 24, 2012
- **15NY-120:** El Cerrito Plaza Station Sidewalk and Wayfinding Improvement
 - Bid Date: April 24, 2012
- 17AG-130: Refurbish Breakrooms at Richmond, El Cerrito Plaza, 12th St., 19th St., and Lake Merritt Stations
 - Bid Date: April 24, 2012
- **11TJ-130:** HVAC Upgrade at Daily City Yard Transportation Building
 - Bid Date: May 8, 2012

Office of Civil Rights



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Q & A

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Office of Civil Rights:

http://bart.gov/about/business/ocr/

The Department of General Services:

http://www.dgs.ca.gov/pd/Programs/OSDS.aspx